

KRATOM CONSUMER PROTECTION ACT

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: _____

LONG TITLE

General Description:

This bill creates the Kratom Consumer Protection Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a person that prepares, distributes, sells, or offers to sell a kratom product to follow certain labeling requirements;
- ▶ prohibits a person from preparing, distributing, selling, or offering for sale certain kratom products;
- ▶ establishes penalties for violating the Kratom Consumer Protection Act;
- ▶ creates a civil cause of action; and
- ▶ requires the Department of Agriculture and Food to make rules to administer and enforce the Kratom Consumer Protection Act.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

4-44-101, Utah Code Annotated 1953



- 28 [4-44-102](#), Utah Code Annotated 1953
- 29 [4-44-103](#), Utah Code Annotated 1953
- 30 [4-44-104](#), Utah Code Annotated 1953
- 31 [4-44-105](#), Utah Code Annotated 1953
- 32 [4-44-106](#), Utah Code Annotated 1953
- 33 [4-44-107](#), Utah Code Annotated 1953



35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section **4-44-101** is enacted to read:

37 **CHAPTER 44. KRATOM CONSUMER PROTECTION ACT**

38 **4-44-101. Title.**

39 This chapter is known as the "Kratom Consumer Protection Act."

40 Section 2. Section **4-44-102** is enacted to read:

41 **4-44-102. Definitions.**

42 As used in this chapter:

43 (1) "Commissioner" means the commissioner of the department.

44 (2) "Dealer" means a person who:

45 (a) sells, prepares, or maintains a kratom product; or

46 (b) advertises, represents, or holds oneself out as selling, preparing, or maintaining a
47 kratom product.

48 (3) "Department" means the Department of Agriculture and Food created in Section
49 [4-2-102](#).

50 (4) "Food" means:

51 (a) an article used for food or drink for human or animal consumption or the
52 components of the article;

53 (b) chewing gum or chewing gum components; or

54 (c) a food supplement for special dietary use that is necessitated because of a physical,
55 physiological, pathological, or other condition.

56 (5) "Kratom product" mean food containing any part of a leaf of the plant *Mitragyna*
57 *speciosa*.

58 Section 3. Section **4-44-103** is enacted to read:

59 **4-44-103. Factual basis for claim as kratom product required -- Administrative**
60 **penalty -- Request for hearing.**

61 (1) A dealer shall disclose on the product label of each kratom product that the dealer
62 prepares, distributes, sells, or offers for sale the factual basis upon which the dealer represents
63 the food as a kratom product.

64 (2) For a violation of Subsection (1), a dealer is subject to an administrative fine of:

65 (a) up to \$500 for the first offense; and

66 (b) up to \$1,000 for a second or subsequent offense.

67 (3) Upon the request of a dealer fined under this section, the commissioner shall
68 conduct a hearing in accordance with Title 63G, Chapter 4, Utah Administrative Procedures
69 Act.

70 Section 4. Section **4-44-104** is enacted to read:

71 **4-44-104. Dealer requirements -- Criminal penalty.**

72 (1) A dealer may not prepare, distribute, sell, or offer for sale a kratom product:

73 (a) that is mixed or packed with a nonkratom substance that affects the quality or
74 strength of the kratom product to such a degree as to render the kratom product injurious to a
75 consumer;

76 (b) that contains a poisonous or otherwise deleterious nonkratom ingredient, including
77 a controlled substance as defined in Section [58-37-2](#);

78 (c) containing a level of 7-hydroxymitragynine in the alkaloid fraction that is greater
79 than 2% of the alkaloid composition of the kratom product;

80 (d) containing a synthetic alkaloid, including synthetic mitragynine, synthetic
81 7-hydroxymitragynine, or any other synthetically derived compound of the kratom plant; or

82 (e) that does not include a product label on the kratom product packaging that states the
83 amount of mitragynine and 7-hydroxymitragynine contained in the packaged kratom product.

84 (2) A dealer who violates this section is:

85 (a) guilty of a misdemeanor for each violation; and

86 (b) punishable by imprisonment for not more than 90 days, a fine not to exceed \$500,
87 or both.

88 (3) A dealer does not violate this section if the dealer shows by a preponderance of the
89 evidence that the dealer relied in good faith upon the representation of a manufacturer,

90 processor, packer, or distributor of food represented to be a kratom product.

91 Section 5. Section **4-44-105** is enacted to read:

92 **4-44-105. Prohibition on sale to minors -- Criminal penalty.**

93 (1) A dealer may not distribute, sell, or offer for sale a kratom product to an individual
94 under 18 years of age.

95 (2) A dealer who violates this section is:

96 (a) guilty of a misdemeanor for each violation; and

97 (b) punishable by imprisonment for not more than 90 days, a fine not to exceed \$500,
98 or both.

99 Section 6. Section **4-44-106** is enacted to read:

100 **4-44-106. Civil action available.**

101 In addition to and distinct from any other remedy at law, an individual may bring a civil
102 action, in a competent court of jurisdiction, for damages resulting from a violation of this
103 chapter, including economic, noneconomic, or consequential damages.

104 Section 7. Section **4-44-107** is enacted to read:

105 **4-44-107. Rulemaking.**

106 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
107 department shall make rules for the administration and enforcement of this chapter, including
108 labeling requirements on kratom products.